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EXAMINER

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3622

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Paper No. 25

Application Number: 09/045,518

Filing Date: March 20, 1998

Appellant(s): Andrew S. Van Luchene

MAILED

JUN 13 2003

GROUP 3600

Dean Alderucci

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed April 10, 2003.

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(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The appellant's statement in the brief that certain claims do not stand or fall together is not agreed with because the claims in various groups contain the same limitations as other groups. Furthermore, the Appellant has presented the same arguments for various sets of groups. The Examiner believes the claims should be grouped according to their claimed features in the following manner:

Group I: Claims 1 and 2 (Claim 2 is the apparatus version of Claim 1)

Group II: Claims 3-6 (Claims 4 and 6 are the apparatus versions of Claims 3 and 5)

Group III: Claims 7-24 (Claims 16-24 are the apparatus versions of Claims 7-15)

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Group IV: Claims 25-27 (as per Appellant)

Group V: Claims 28 and 30 (as per Appellant)

Group VI: Claim 29 (as per Appellant)

Group VII: Claim 31 (as per Appellant)

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

5,869,826

ELEFThERIOU

2-1999

Fiorini, Phillip, "No Place For a Penny", USA Today, Gannett Company, Inc., July 29, 1994, 1017 words, 3 pp.

Examiner's Affidavit from James W. Myhre, attested to and notarized on February 22, 2001, 1 pp.

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

(A) Claims 1-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In response to the Applicant's arguments against the previous rejection of Claims 1-24 under 35 U.S.C. 101, the Examiner has once again reviewed the claims and consulted with the "101 Panel" in reference to the recent interpretations of statutory material. The panel again agreed with the Examiner's

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conclusion that although the rounded purchase price is tangible and may possibly be useful, the purchase price is not tied to anything concrete and no intended use for it is indicated in the claims. Thus, it does not meet the three criteria for statutory material and is deemed to be an abstract idea. Therefore, the Examiner has maintained the previous rejection, which is recited again below for the Applicant's convenience.

Claims 1- 24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1, 3, 5, and 7-15 recite a series of steps and are considered for the purpose of analysis under 35 U.S.C. 101 as reciting a series of steps. Claims 2, 4, 6, and 16-24 recite an apparatus (programmed computer) which performs the steps of the method claims above. There is no disclosure within the specification that the apparatus itself is a specific machine, but merely a general purpose computer that is programmed to perform the steps of the method claims. Therefore, Claims 2, 4, 6, and 16-24 are analyzed based on the series of steps being performed. Further, the claims do not recite and pre- or post-computer activity but merely perform a series of steps of receiving data and manipulating the data, and is directed to non-statutory subject matter. A process is statutory if it requires physical acts to be performed outside of the computer independent of and following the steps performed by a programmed computer, where those acts involve the manipulation of tangible physical objects and result in the object having a different physical attribute or structure (*Diamond v. Diehr*, 450 U.S. at 187,209 USPQ at 8). Further, the claims merely manipulate an abstract idea or perform a purely mathematical algorithm (adding and rounding) without limitation to any practical application. A process which merely manipulates an abstract idea or performs a purely mathematical algorithm is non-statutory despite the fact that it might have some inherent usefulness (*Sakar*, 558 F.2d at 1335,200 USPQ at 139).

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(B) Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillip Fiorini ("No Place for a Penny") in view of Eleftheriou (5,869,826).

Claims 1-6: Fiorini discloses several businesses, such as Kroger and Winn-Dixie supermarkets (page 1) and Christie's Cafe (page 2) which have been rounding off purchase prices. In these examples, the rounding code is implied to be to the closest nickel (a rounding multiplier of 5 cents), and the purchase price is then rounded to eliminate the requirement for pennies. Furthermore, as shown in the Examiner's Affidavit which accompanied paper number 11, the Examiner had first-hand experience with rounding the purchase price to eliminate receiving change in late 1950's and early 1960's at the local grocery store. As an example, if, when I purchased a soft drink (15 cents) and a chocolate bar (7 cents) for a total of 22 cents, I only had a quarter (25 cents), the grocer would offer one or more supplemental products (normally candy) in lieu of the 3 cents change due. This is not an isolated example. Many retail establishments offer the customer sticks of gum, etc. in order to round off the purchase price and to eliminate the need to handle small change. Additionally, it is common when purchasing large items, such as automobiles and houses, to round off the final purchase price to the nearest \$10, \$20, \$100, or even \$1,000. While Fiorini does not explicitly disclose that the rounding code is being selected from a plurality of rounding codes, Eleftheriou discloses a similar method for rounding purchase prices which also discloses that the rounding code could be a nickel, dime, quarter, one dollar, etc. (col 8, lines 24-38). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the merchant in Fiorini must choose the desired rounding code from the whole range of possible rounding codes which ranges from one cent to infinity. It would have also been obvious that the merchant would choose a rounding code that corresponded to the most commonly used

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denomination of currency, such as a nickel, dime, quarter, one dollar, five dollars, ten dollars, twenty dollars, or some multiple of each. One would have been motivated to choose different rounding codes for different items/purchases in order to provide a more logical rounded price as discussed in paragraph 11c in paper number 11.

Claims 7-24: Fiorini and Eleftheriou disclose rounding off purchase prices using rounding codes and multipliers as described in Claims 1-6 above, but do not explicitly disclose that the rounding code is also associated with a fixed price. Official Notice is taken that it is old and well known within the retail arts to set a fixed price for each product, supplemental or otherwise, and to associate the fixed price and rounding code (multiplier). In support of this Official Notice, the Examiner notes that Eleftheriou discloses that the salesperson enters the total dollar cost of the goods (col 7, lines 12-14); thus, inferring that a fixed price is associated with each of the goods. In further support, the Examiner notes that the Applicant states on page 3 of the specification that “the upsell price is not fixed like most conventional prices for items”, thus admitting that most goods have fixed prices. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that when more than one product is selected by the customer to add the fixed prices together and then to select one rounding code to use to round the purchase price. One would have been motivated to do this in order to prevent unnecessary calculations by the system. For instance, if three items had fixed prices of \$14.50, \$7.50, and \$1.75 and rounding multipliers (codes) of \$10, \$5, and \$1, respectively, the total of the fixed prices would be \$23.75. If the \$10 rounding multiplier was applied, the adjusted price would be \$30.00. If the \$5 rounding multiplier was applied, the adjusted price would be \$25.00. Finally, if the \$1 rounding multiplier was applied, the adjusted price would be \$24.00. However, once the price had been rounded

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to \$30.00 by the \$10 rounding code, the other two rounding factors would not adjust the purchase price since \$30 is a factor of both \$5 and \$10. Thus, these calculations would be unnecessary.

Claims 25-27: Fiorini discloses several businesses, such as Kroger and Winn-Dixie supermarkets (page 1) and Christie's Cafe (page 2) which have been rounding off purchase prices. In these examples, the rounding code is implied to be to the closest nickel (a rounding multiplier of 5 cents), and the purchase price is then rounded to eliminate the requirement for pennies, as discussed in reference to Claims 1-6 above. While Fiorini does not explicitly disclose providing an item not included the original purchase price in addition to the item(s) originally being purchased in exchange for the rounded purchase price, it is old and well known within the retail arts to do so, as per the Examiner's Affidavit. The feature of selecting a rounding multiplier based in the rounding code received has been discussed in conjunction with the Eleftheriou reference in Claims 7-24 above.

Claims 28-31: Fiorini discloses rounding off purchase prices using rounding codes and multipliers as described in Claims 1-6 above, but does not disclose using a bar code scanner to input information about the item. Eleftheriou discloses a similar method for rounding purchase prices which includes a bar code scanner for inputting information about the items (col 5, lines 61-64). Eleftheriou also discloses rounding the price based upon an integer selected from a plurality of integers in which at least one of the integers is 1 (col 8, lines 24-38). Eleftheriou discloses that the price is rounded up or down to the nearest whole dollar (i.e. an integer of 100) or to whole quarters, dimes, nickels, pennies, etc. (i.e. an integer of 25, 10, 5, 1, etc.). The disclosure that the price can be rounded up infers that the price is rounded to the lowest multiple of the integer that is greater than the price. In other words, if the price is \$3.98 and the rounding code is one dollar, the price would be rounded up to \$4.00, not \$5.00 or \$6.00.

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Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a bar code scanner to input information about the items in Fiorini and to round the price up to the nearest multiple of the integer selected from the plurality of possible rounding integers. One would have been motivated to use a bar code scanner and to round the prices up to the nearest multiple of the integer in view of the wide spread use and availability of bar code scanners at points of sale and in view of the normal meaning of rounding up in the commerce arts.

(11) Response to Argument

(A) The Appellant argues in reference to Group I (Claim 1) that the claim is directed towards statutory subject matter. The Appellant cites numerous case law in support of his arguments that anything that is concrete, tangible, and useful is statutory (page 16); that the “purchase price” (and rounded purchase price) is not merely an abstract idea or a “hypothetical number” (page 21); and that “a claimed process might read on a mentally performed embodiment does not render a claim nonstatutory” (page 22). The Examiner notes that as discussed in the 35 U.S.C. 101 rejection above, the rounded purchase price is deemed to be tangible in that it represents a fixed number. It is also deemed to possibly be useful, if it were tied to an item or service. However, since Claim 1 rounds some undetermined purchase price without indicating that the purchase price is tied to any product, service, or item (hereinafter “product”), it is not concrete, but merely a name given to a rounded number. If the claim indicated that the purchase price of some product was received and that this purchase price was the one being rounded, the Examiner would concur that it would be statutory. However, there is no indication that this number, either before or after the rounding has taken place, is anything more than an abstract number unassociated with any product. The Examiner further notes that the claim is not related to any

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technological art. As in the 35 U.S.C. 101 rejection it is noted that the claim recites two steps: receiving a rounding code and rounding a purchase price; both of which could be done mentally by a person reading or hearing a rounding code (e.g. "round to the nearest \$1, \$5, or \$10") and doing a mental calculation of a rounded purchase price (assuming the person already knew a purchase price). Doing mental calculations can in no way be considered statutory, especially when the result of the calculations is not used for anything. In the case law cited by the Appellant, it was ruled that "the existence of mental steps in the claims or specification of a patent do not, in and of themselves, invalidate the patent" (page 22). The Examiner agrees that including steps that could be performed mentally within a process doesn't render the claim automatically nonstatutory. However, if the entire process is nothing more than a mental exercise in mathematics with no action being taken based on the end result, then it is clearly just an abstract idea. Additionally, it would be impossible to discern if the process involved in mentally arriving at the end result (a rounded purchase price in this case) by two individuals consisted of the same steps, thus infringing on a patent for performing mental calculations. If one takes the Appellant's argument to the extreme and consider all of Claim 1 as being performed mentally, it would read on a new merchant deciding to round off the purchase prices of any products he might be offering to the nearest five dollars (receiving a rounding code) and thinking that the rounded purchase prices would be \$5, \$10, \$15, etc., without connecting the rounded purchases prices to any specific products. Of course, the merchant would be free to change his mind and decide to start the rounded purchase prices at \$10 instead of \$5. Again, this is a mental exercise since the merchant is merely making up his mind on how he wants to price his goods. If the merchant was going to be starting a business selling automobiles and wanted to keep the pricing simple, he may decided that all of the prices for his hypothetical cars would

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be rounded to the nearest \$100 or even the nearest \$1000 with no car being sold for less than \$20,000. Hence, the rounded prices for whatever cars he will be selling would be \$20,000, \$21,000, \$22,000, etc. As before, this is merely an abstract business decision reached by the manager and results in purely abstract rounded prices. Once the manager actually places (ties) these rounded prices onto actual cars as the selling price, the abstract rounded price would become an actual rounded price and the process would become statutory (since the result of the mental calculations is being used, i.e. has become “useful and concrete”). Based on the above arguments, the Examiner believes the Appellant arguments against the nonstatutory rejections above have been traversed and that the rejections should be upheld.

(B) The Appellant argues in reference to Group I (Claim 1) that the references cited (Eleftheriou in particular) do not disclose that “a rounding code of a plurality of different rounding codes is received” (page 23). The Appellant argues that the device in Eleftheriou needs to be reprogrammed in order to change the rounding code; and, thus, cannot be receiving a rounding code from a plurality of rounding codes. In the Appellant’s view, by changing the rounding code in the device it becomes a completely different device because it “performs rounding in a different way” (page 24). Using this logic, the Appellant’s own device would also become a completely different device when it receives a new rounding code. In both the reference and the current application, the only thing that is changed is the value of the variable in the rounding equation. The Appellant also argues that the merchant must completely reprogram the device each time. However, the Examiner does not believe most store merchants would have the skill or knowledge to reprogram their computer system. It is much more feasible that the merchant would only have to select the rounding code by pressing a key or a series of keys on the input device of the device. As to the Appellant’s argument that “no single entity in

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Eleftheriou both receives a rounding code as well as rounds a purchase price based on the received rounding code” (page 24), the examiner notes that the system (e.g. cash register) in Eleftheriou receives the rounding code (from a plurality of possible rounding codes) from the merchant and thereafter automatically rounds the purchase price. Thus, the system is performing both steps of the claim. The Appellant further argues that the reference “does not even round a purchase price” (page 25) because the actual cost of product does not change. However, when using the reference invention, the customer would remit, for example, \$3 for a purchase instead of the \$2.95 actual cost. Thus, the purchase price of that transaction has been rounded. The fact that the customer may receive money back on a future purchase by using the credits stored on his change card does not affect the fact that the current transaction price has been rounded. This is similar to a \$19.95 purchase with a \$5 rebate. The purchase price of the transaction is still \$19.95. The fact that the customer may receive a future benefit (\$5 rebate) does not change the amount of money he must remit to complete the current transaction. The Appellant concludes by arguing that the references do not round the purchase prices for the same reasons as the current invention (and parent cases) (page 27). The Examiner notes that no reasons or even uses for the rounded codes are present in the claims. The fact that a rounded purchase price may be used for a variety of purposes and that the two inventors have not chosen the same reason for calculating the rounded price does not change the steps involved in calculating such a rounded purchase price.

(C) The Appellant argues that there are no reasons or motivation to combine the references. The Examiner notes that all the references are calculating a rounded final price charged to a customer during a transaction. As the Appellant noted in the preceding argument, there are numerous reasons for

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rounding a purchase price. However, none of these reasons or goals are present in the claims. Thus, one of ordinary skill in the art would have looked at these and all similar art when attempting to set up a transaction system which included rounded purchase prices - for whatever reason.

(D) The Appellant argues in reference to the Examiner's Affidavit that it cannot be used as evidence since it is the Examiner's own experience and not substantiated evidence (pages 30-31). The Appellant goes so far as to accuse the Examiner of fabricating the facts of the affidavit based on the Appellant's specification since the facts pertain to actions taken by the Examiner 32 years before the creation of the Affidavit (page 32); that the Affidavit is not challengeable because the Examiner did not identify other classmates who could verify or discount the statements (pages 32-33); that the Affidavit was not based on the examiner's expertise in the art (page 34); that the assertions are not those of an unbiased third party (page 34); and that allowing Examiners to assert what they remembering doing in the past would dramatically alter the examination process (page 34). The Examiner notes that he has no trouble remembering events more than 30 years ago, especially things that he did repeatedly over a period of 9 years. The Examiner also notes that the MPEP forbids examiners from cited or using affidavits from any third party when rejection claims. Therefore, there is no need to identify or present a list to the Appellant of all the other students who attended the same school as the Examiner during the period in question. In reference to the Examiner's expertise in the art at the time the events took place, the Affidavit is based on the actions of the Examiner at his local store which included purchasing items. Since the period covered the time that the Examiner was 9 years old until the Examiner reached 18 years old, I believe that I was skilled in the art of purchasing at that time, even though there is no legal requirement of expertise on the part of someone who completes an Affidavit. As to the final two

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arguments that the Examiner's remembrances were biased or that allowing examiners to remember things that they have done in the past as dramatically altering the examination process, the Examiner notes that the Examiner has submitted a sworn, notarized Affidavit describing his past activities. This is a true account of what I did during that period and I am willing to swear in any court in the land as to its veracity. Finally, to preclude Examiners (and supposedly Applicants) from remembering and presenting facts of past events in their lives which pertain to a pending patent application would not only dramatically alter the examination process, but would also be a disservice to the inventors and the American public. For instance, if the Applicants were precluded from presenting such events in sworn Affidavits, the current practice of establishing due diligence would be entirely negated.

(E) The Appellant also argues against the use of Official Notice in the rejection and states that "the Examiner's sweeping assertions which are not supported by the references of record lack substantial evidence, and therefore cannot be used as prior art to the present application. Only the content of the references of record which are prior art to the present application may be used" (page 35) "In other words, official notice of what existed in the prior art is not permitted. A reference must be provided to show the scope and content of the prior art" (page 36); and assertions of technical facts in areas of esoteric technology must always be supported by citation to some reference work recognized as standard in the pertinent art and the appellant given, in the Patent Office, the opportunity to challenge the correctness of the assertion or the notoriety or reputation of the cited reference" (page 36). The Examiner notes two things. First, the Official Notice cited in the rejection of Claims 7-24 in the final office action (above) was supported by the Eleftheriou reference used throughout the rejection. Furthermore, the feature which was considered to be well known by the Examiner was for a merchant to set a fixed price

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for a product and to associate a rounding code and the fixed price. The first part...that the merchant sets fixed prices for his products...is readily discerned by anyone who has ever shopped in a store within this country or many other developed countries throughout the world. While some small stores or stores in less developed countries may still let the salesperson set any price on a product, in this country it is almost universal for the merchant to place price tags with a fixed price on or near the product being sold. Even the Appellant has admitted this in his specification where he states that “the upsell price is not fixed like most conventional prices for items” (page 3), thus admitting that most goods have fixed prices. As argued in the rejection, the selection of the rounding code for the product would be based on its cost. A rounding code of \$1 on the price of a house or a car would be of little value to the customer. However, a rounding price of \$1 on a food item cost \$2.25 would be deemed very valuable to the customer. Therefore, it would have been obvious to base the rounding code on the price of the product. Second, the Examiner does not believe that business is an esoteric art. The word “esoteric” is defined in Webster’s II, New Riverside University Dictionary as “1. Intended for or understood only by a particular group. 2. A. Known by a restricted number. B. Confined to a small group. 3. Not publicly disclosed: CONFIDENTIAL.” Since business methods have been used and understood by people all over the world since the beginnings of bartering between caves, business cannot, in any sense of the word, be viewed as an esoteric art. Thus, since the Appellant has not presented any arguments that call into doubt that the feature is well known, the Official Notice should be upheld.

(F) The Appellant presents the same arguments in reference to Group II (Claim 2) as made against Group I. The Examiner notes that Claim 2 is the “apparatus” version of the method Claim 1; and both claims have been grouped together into the Examiner’s Group I above.

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(G) The Appellant argues in reference to Group III (Claims 3 and 5) that the claims include the limitation of “determining a rounding multiplier” (page 39). However, the Appellant does not argue that this feature is not present in the references. Notwithstanding the Appellant’s lack of argument, the Examiner notes that a rounding code or rounding multiplier is inherently used to calculate the rounded purchase price in the references. It is inherent that if the rounding code is not already a multiplier (i.e. the rounding codes are A, B, and C), the code must be correlated to a numerical multiplier. It would be impossible for the references to calculate a rounded purchase price using an alphabetic character in the rounding equation. Eleftheriou in particular discloses that the rounding code is a multiplier of a dollar (1.00) a quarter (.25), a dime (.10), or a nickel (.05)(col 8, lines 33-36).

(H) The Appellant presents the same arguments in reference to Group IV (Claims 4 and 6) as made against Group III. The Examiner notes that Claims 4 and 6 are “apparatus” versions of Claims 3 and 5; and all four claims have been grouped together into the Examiner’s Group II above.

(I) The Appellant argues in reference to Group V (Claims 7-15) that the references do not disclose “receiving a plurality of rounding codes” nor that each “rounding code has a corresponding rounding multiplier and fixed price” (page 44). The Examiner notes that Eleftheriou discloses that the merchant can set (thus, the system receives) a plurality of rounding codes (with a corresponding multiplier as per the discussion in reference to Group II above). As discussed in the rejection of these claims above and in the response to the Appellant’s arguments against the use of Official Notice in paragraph 11E above, it is well known for merchants to place fixed prices on products. The Appellant appears to be implying that the rounding code is associated with a second product, the fixed purchase prices of the two products are added together, and then the total cost is rounded using the rounding

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code (with its corresponding multiplier) of the second product. However, the claims do not recite all of these limitations. There is no indication that any product is involved, either with the first purchase price or the fixed price associated with the rounding code. Thus, the Appellant is adding two (or more) fixed numbers (prices) together to get a purchase price which is then rounded using the rounding code multiplier. This is exactly what the references do...round the total purchase price by whatever rounding multiplier was received by the system from the merchant.

(J) The Appellant presents the same arguments in reference to Group VI (Claims 16-24) as made against Group V. The Examiner notes that Claims 16-24 are “apparatus” versions of Claims 7-15); and all 18 claims have been grouped together into the examiner’s Group III above.

(K) The Appellant argues in reference to Group VII (Claims 25-27) that the references do not disclose receiving a rounding code “from a first item not included in the purchase” (page 48). The Examiner notes that this feature was rejected using the Examiner’s Affidavit in which the local grocer calculated the total purchase price of one or more items and then included an additional item to arrive at a rounded purchase price. The additional item had a fixed price and was selected based on its fixed price and its corresponding rounding code. In other words, since the merchant would choose different items in accordance with the value of the change due, it is implied that each item had a rounding code. If an item’s fixed price was \$.40, the merchant may choose it in order to round the total price to the nearest quarter (.25). If the fixed price of a different item was \$1.50, the merchant may choose it in order to round the total price to the nearest dollar. Since the merchant is in the business to make money, it would not make any sense for the merchant to give a customer the \$1.50 item in order to round off the price to the nearest quarter, which may only increase the total price by a few cents.

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(L) The Appellant argues in reference to Group VIII (Claims 28 and 30) that the references do not disclose rounding a price using “the lowest multiplier of the selected integer that is greater than the price” (page 54) and that “at least one of the plurality of integers is 1”. As the examiner noted in the rejection of these claims and cited by the Appellant in his arguments, Eleftheriou discloses that the price is rounded up or down to the nearest whole dollar, quarter, dime, nickel, penny, etc. Depending on one’s viewpoint the rounding integer for these could be 100, 25, 10, 5, and 1; or 1, .25, .10, .05, and .01. Either way, at least one of the integers is “1”. When rounded the price up, it would have been obvious to choose the lowest multiple of the integer that was greater than the price. If the multiplier was chosen less than the price, the price would be rounded down, not up. The definition of “rounding up” a number is to take that number to the next highest multiple based on the rounding multiplier, thus is inherent when one is rounding. For instance, to round off the number 18 by using a rounding factor of 10, the rounded number would be 20, not 30 or 40. Thus, Eleftheriou’s disclosure of rounding the price off to the nearest dollar, etc., implies that the “rounded price is determined to be the lowest multiple of the selected integer that is greater than the price”.

(M) The Appellant presents the same arguments in reference to Group IX (Claim 29) as were made against Group VIII above. Since the Claim is broader than the claims in Group VIII, the Examiner has not grouped the three claims together. However, the same discussions apply to both groups.

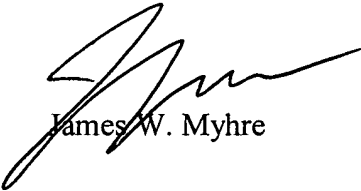
(N) The Appellant argues in reference to Group X (Claim 31) that the Eleftheriou does not disclose using the scanned bar code for anything other than “to indicate cost and other requisite information” (page 64). The Examiner notes that the claim states that an integer is selected based on the scanned bar code, not that the integer is part of the bar code. In the reference, the scanned bar code is

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used to identify the item and its cost ("and other requisite information"), as noted by the Appellant, and a rounding code (i.e. integer) is selected based on the item and its cost. The argument in reference to the selection of an integer has been addressed in paragraph 11L (Group VII) above.

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,



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JWM
December 6, 2001

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